

2SSB 5774 - H COMM AMD

By Committee on College & Workforce Development

NOT CONSIDERED 12/23/2019

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that a
4 postsecondary credential is essential to Washingtonians' ability to
5 attain jobs with good salaries and advancement opportunities, and
6 that meeting the increasing demand for credentialed workers to fill
7 jobs in Washington is essential to the future health of the state's
8 economy. The legislature finds that the amount of debt that
9 individual Washingtonians incur in pursuit of postsecondary
10 credentials represents a growing burden on individuals and on the
11 state's economy at large that negatively impacts individuals' ability
12 to obtain a postsecondary credential, as well as their ability to
13 save for retirement, purchase a home, and start a family. The
14 legislature finds that giving Washingtonians new tools to address
15 this burden is necessary to help make higher education more
16 accessible and affordable.

17 NEW SECTION. **Sec. 2.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

20 (1) "Council" means the Washington student achievement council.

21 (2) "Income" has the same meaning as in section 9 of this act.

22 (3) "Income share agreement" has the same meaning as in section 9
23 of this act.

24 (4) "Income share agreement originator" has the same meaning as
25 in section 9 of this act.

26 (5) "Program administrator" means a private organization with
27 experience designing and administering income share agreements.

28 NEW SECTION. **Sec. 3.** (1) Subject to receipt of grants,
29 contributions, or amounts appropriated specifically for this purpose,
30 the Washington income share agreement pilot program is created.

1 (2) The council shall provide administrative support to execute
2 the duties and responsibilities provided in this chapter including,
3 but not limited to:

4 (a) Imposing reasonable limits on the terms of income share
5 agreements under the pilot program;

6 (b) Publicizing the pilot program;

7 (c) Originating income share agreements or contracting with
8 institutions of higher education or a private entity to originate
9 income share agreements;

10 (d) Partnering with the institutions of higher education in
11 selecting participants for the pilot program;

12 (e) Distributing income share agreement pilot program funds;

13 (f) Contracting with a program administrator for execution of
14 income share agreements;

15 (g) Establishing minimum reporting requirements for income share
16 agreement originators participating in the pilot program;

17 (h) Ensuring transparency in investment decisions and processes;

18 (i) Formulating and adopting all other policies and rules
19 necessary for the efficient administration of the pilot program;

20 (j) Making, executing, and delivering contracts, conveyances, and
21 other instruments necessary to the exercise and discharge of its
22 powers and duties under this chapter; and

23 (k) Performing all acts necessary and proper to carry out the
24 duties and responsibilities of the pilot program under this chapter.

25 (3) The program administrator may be paid an administrative fee
26 as determined by the council.

27 (4) The council shall establish and manage the income share
28 agreement account into which grants and contributions from private
29 sources may be received as well as state funds, and from which income
30 share agreement funds may be disbursed to participants and payments
31 may be remitted.

32 (5) The council may solicit and accept grants and contributions
33 from private sources for deposit into the income share agreement
34 account.

35 (6) On a biennial basis beginning July 1, 2020, the council must
36 report to the appropriate committees of the legislature the:

37 (a) Number of income share agreements under contract with the
38 income share agreement originator;

39 (b) Number of income share agreements by institutions of higher
40 education;

1 (c) Average income share agreement amount, percentage of future
2 income obligated, and duration of obligation by institution of higher
3 education;

4 (d) Demographic information regarding income share agreement
5 participants that includes gender, race or ethnicity, income level,
6 and geography; and

7 (e) Total expected lifetime payments from income share agreements
8 to the income share agreement account.

9 NEW SECTION. **Sec. 4.** A state match may be earned for private
10 contributions made on or after August 1, 2019. The state may provide
11 matching funds equal to the amount of private contributions received
12 by the council for the purposes of the income share agreement pilot
13 program on the January 1st following the end of the fiscal year in
14 which the private contributions are received. The state match may not
15 exceed amounts appropriated specifically for the pilot program.

16 NEW SECTION. **Sec. 5.** (1) The income share agreement pilot
17 program account is created in the custody of the state treasurer.
18 Moneys received from private contributions, state moneys, and funds
19 collected under income share agreements may be deposited in the
20 account. All receipts from the income share agreement pilot program
21 must be deposited in the account.

22 (2) Expenditures from the account may be used only for the income
23 share agreement pilot program. Only the executive director of the
24 council or the executive director's designee may authorize
25 expenditures from the account. The account is subject to allotment
26 procedures under chapter 43.88 RCW, but an appropriation is not
27 required for expenditures.

28 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.131
29 RCW to read as follows:

30 The Washington income share agreement pilot program is terminated
31 July 1, 2027, as provided in section 7 of this act.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.131
33 RCW to read as follows:

34 The following acts or parts of acts, as now existing or hereafter
35 amended, are each repealed, effective July 1, 2028:

36 (1) RCW 28B.--.--- and 2019 c . . . s 1 (section 1 of this act);

- 1 (2) RCW 28B.--.--- and 2019 c . . . s 2 (section 2 of this act);
- 2 (3) RCW 28B.--.--- and 2019 c . . . s 3 (section 3 of this act);
- 3 (4) RCW 28B.--.--- and 2019 c . . . s 4 (section 4 of this act);
- 4 and
- 5 (5) RCW 28B.--.--- and 2019 c . . . s 5 (section 5 of this act).

6 NEW SECTION. **Sec. 8.** Sections 1 through 5 of this act
7 constitute a new chapter in Title 28B RCW.

8 NEW SECTION. **Sec. 9.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires
10 otherwise.

11 (1) "Income" means salary, wages, interest, dividends, and other
12 earnings that are reportable for federal income tax purposes.

13 (2) "Income share agreement" means a written contract between a
14 student and an income share agreement originator in which the student
15 agrees to pay a specified percentage of their future income for a
16 specified period of time in exchange for payment for vocational or
17 postsecondary education.

18 (3) "Income share agreement originator" means an individual or
19 entity who for the promise of compensation or gain enters into an
20 income share agreement contract and agrees to pay for a student's
21 vocational or postsecondary education in return for a percentage of
22 the student's future income for a specified period of time. "Income
23 share agreement originator" also includes an individual or entity who
24 purchases an existing income share agreement.

25 NEW SECTION. **Sec. 10.** Any income share agreement entered into
26 by a resident of this state is subject to the authority and
27 restrictions of this chapter. An income share agreement must clearly
28 specify the following disclosures:

29 (1)(a) The percentage of future income that the student is
30 obligated to pay to the income share agreement originator and the
31 number of payments required per year; and

32 (b) The definition of income used to calculate the student's
33 obligation;

34 (2) The maximum duration of the student's obligation under the
35 income share agreement, including any circumstances under which the
36 duration of the agreement may be extended;

37 (3) That the income share agreement is not a debt instrument;

1 (4) That the amount the student is required to pay under the
2 income share agreement may be more or less than the amount paid on
3 behalf of the student for vocational or postsecondary education;

4 (5) That the income share agreement represents the obligation by
5 the student to pay a specific percentage of future income and does
6 not provide the income share agreement originator any rights
7 regarding the student's educational or employment pursuits;

8 (6) Whether a student's obligations under an income share
9 agreement may be extinguished by accelerating payments and any terms
10 under which payment may be accelerated;

11 (7) That a student's obligation under an income share agreement
12 may be forgiven if the student becomes totally and permanently
13 disabled, meaning the student:

14 (a) Is unable to engage in any substantial gainful activity by
15 reason of any medically determinable physical or mental impairment
16 that:

17 (i) Can be expected to result in death;

18 (ii) Has lasted for a continuous period of not less than sixty
19 months; or

20 (iii) Can be expected to last for a continuous period of not less
21 than sixty months; or

22 (b) Has been determined by the United States secretary of
23 veterans affairs to be unemployable due to a service-connected
24 disability; and

25 (8) That a student's obligation under an income share agreement
26 must be discharged if the student dies, based on the following:

27 (a) An original or certified copy of the student's death
28 certificate;

29 (b) An accurate and complete photocopy of the original or
30 certified copy of the student's death certificate;

31 (c) An accurate and complete original or certified copy of the
32 student's death certificate that is scanned and submitted
33 electronically or sent by facsimile transmission; or

34 (d) Verification of the student's death through an authoritative
35 federal or state electronic database approved for use by the student
36 achievement council.

37 NEW SECTION. **Sec. 11.** An income share agreement must adhere to
38 the following regulations:

1 (1) The maximum future income a student is obligated to repay may
2 not exceed two and one-half times the original contracted amount paid
3 on behalf of the student for vocational or postsecondary education.

4 (2) (a) A student with a household income at or below one hundred
5 percent of the federal poverty level is exempt from income
6 determination for a period of one year; and

7 (b) The duration of the student's obligation under the income
8 share agreement may be extended for a duration equal to the exemption
9 period.

10 (3) A student may not have more than fifteen percent of his or
11 her future income obligated under income share agreements. Any income
12 share agreement entered into in which the total percentage of the
13 student's future income obligated exceeds fifteen percent, including
14 any other income share agreements entered into by the student, is
15 void.

16 NEW SECTION. **Sec. 12.** In the event of the sale of an income
17 share agreement, the buyer of the income share agreement is subject
18 to the requirements of this chapter.

19 NEW SECTION. **Sec. 13.** Sections 9 through 12 of this act
20 constitute a new chapter in Title 28B RCW.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.52
22 RCW to read as follows:

23 This chapter does not apply to income share agreements under
24 chapter 28B.--- RCW (the new chapter created in section 13 of this
25 act).

26 NEW SECTION. **Sec. 15.** The definitions in this section apply
27 throughout this chapter unless the context clearly requires
28 otherwise.

29 (1) "Council" means the Washington student achievement council.

30 (2) "Financial institution" has the same meaning as in RCW
31 7.88.010.

32 (3) "Interest rate buy down incentive" means the use of state
33 funds to enable qualified borrowers to receive below market rate
34 interest rates for the purposes of this chapter.

35 (4) "Loan loss reserve coverage" means partial risk coverage to
36 financial institutions to cover losses on qualified loans according

1 to the terms set forth in the contract between the council and the
2 financial institution for the purposes of this chapter.

3 (5) "Program" means the Washington student loan refinancing
4 program.

5 (6) "Qualified borrower" means an individual meeting all of the
6 following requirements:

7 (a) Resident of the state of Washington;

8 (b) Is enrolled in, or has completed, a certificate, associate's,
9 bachelor's, graduate, or professional degree program; and

10 (c) Other criteria as deemed appropriate by the council.

11 (7) "Qualified loan" means a loan or a portion of a loan made by
12 a financial institution to a qualified borrower to refinance an
13 existing student loan under the program. Only a federal direct PLUS
14 loan or a private student loan determined by the financial
15 institution to be an educational loan that is nondischargeable in
16 bankruptcy as set forth in 11 U.S.C. Sec. 523 as it existed on
17 January 14, 2019, shall be a qualified loan eligible for refinancing.
18 A qualified loan made under the program shall:

19 (a) Carry a contractual interest rate at least one-quarter of one
20 percentage point lower than the loan being refinanced, and may be
21 made with the interest rates, fees, and other terms and conditions
22 agreed upon by the financial institution and the qualified borrower;
23 and

24 (b) Specify that a qualified borrower's obligation under a
25 qualified loan must be discharged if the qualified borrower dies,
26 based on the following:

27 (i) An original or certified copy of the qualified borrower's
28 death certificate;

29 (ii) An accurate and complete photocopy of the original or
30 certified copy of the qualified borrower's death certificate;

31 (iii) An accurate and complete original or certified copy of the
32 qualified borrower's death certificate that is scanned and submitted
33 electronically or sent by facsimile transmission; or

34 (iv) Verification of the qualified borrower's death through an
35 authoritative federal or state electronic database approved for use
36 by the council.

37 (8) This section expires July 1, 2029.

1 NEW SECTION. **Sec. 16.** (1) Subject to the availability of
2 amounts appropriated for this specific purpose, the Washington
3 student loan refinancing program is created.

4 (2) The program shall be administered by the council. To execute
5 the program the council shall contract with up to five financial
6 institutions. The financial institutions, in consultation with the
7 council, may leverage the interest rate buy down incentive or the
8 loan loss reserve coverage, or some combination thereof, to refinance
9 existing student loans. In administering the program, the council
10 may:

11 (a) Impose reasonable limits on the terms of qualified loans;
12 (b) Impose reasonable limits on the terms of qualified borrowers;
13 (c) Impose reasonable limits on the use of state funds for the
14 marketing of qualified loan products by financial institutions;

15 (d) Establish minimum reporting requirements for financial
16 institutions participating in the program;

17 (e) Establish minimum required disclosures by financial
18 institutions for qualified loans. At a minimum, the disclosures must
19 notify qualified borrowers of the:

20 (i) Loss of borrower protections including income contingent
21 repayment and public service loan forgiveness options if the
22 qualified borrower is refinancing a federal direct PLUS loan under
23 this chapter; and

24 (ii) Estimated total cost of the qualified loan, including
25 accrued interest under this chapter;

26 (f) Appoint and use advisory committees and the department of
27 financial institutions as needed to provide program guidance and
28 direction;

29 (g) Formulate and adopt all other policies and rules necessary
30 for the efficient administration of the program;

31 (h) Make, execute, and deliver contracts, conveyances, and other
32 instruments necessary to the exercise and discharge of its powers and
33 duties under this chapter; and

34 (i) Perform all acts necessary and proper to carry out the duties
35 and responsibilities of the program under this chapter.

36 (3) On a biennial basis beginning July 1, 2020, the council must
37 report to the appropriate committees of the legislature on the:

38 (a) Number of financial institutions currently under contract
39 through the program;

40 (b) Number of qualified loans refinanced under the program;

1 (c) Qualified borrower requirements established by the council
2 and the financial institutions;

3 (d) Demographic information for qualified borrowers that includes
4 gender, race or ethnicity, income level, and geography; and

5 (e) Estimated total savings for qualified borrowers with
6 qualified loans as defined by the difference between what the
7 qualified borrower would have paid under the original loan and what
8 the qualified borrower is paying under the qualified loan.

9 (4) This section expires July 1, 2029.

10 NEW SECTION. **Sec. 17.** Sections 15 and 16 of this act constitute
11 a new chapter in Title 28B RCW.

12 NEW SECTION. **Sec. 18.** This act may be known and cited as the
13 student loan relief and reform act."

14 Correct the title.

EFFECT: The striking amendment makes the following changes:

(1) Modifies the definitions of "income share agreement" and "income share agreement originator" to specify that income share agreements (ISAs) are written contracts between students and ISA originators in which the ISA originator pays for the student's vocational or postsecondary education in exchange for a specified percentage of the student's future income for a specified time period;

(2) Makes the ISA Pilot Program subject to a sunset review by the Joint Legislative Audit and Review Committee after four years;

(3) Adds that the Student Achievement Council may originate ISAs or contract with institutions of higher education or a private entity to originate ISAs for the ISA Pilot Program;

(4) Clarifies that the ISA disclosures and regulations apply to any ISA entered into by a resident of the state;

(5) Makes the ISA disclosures and regulations a new chapter in Title 28B RCW;

(6) Restructures and reorganizes the ISA disclosures and regulations;

(7) Limits the types of loans eligible for refinancing under the Washington Student Loan Refinancing (WSLR) program to private student loans and federal Direct PLUS loans;

(8) Modifies the definition of "qualified borrower" under the WSLR program to include current students.

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